

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
WACO DIVISION

UNITED STATES OF AMERICA	§	
	§	
vs.	§	NO: WA:17-CR-00214(1)-ADA
	§	
(1) NOE NIETO SR.	§	

**ORDER ACCEPTING REPORT AND RECOMMENDATION**  
**OF THE UNITED STATES MAGISTRATE JUDGE**

Before the court is the above styled and numbered cause. On October 25, 2023 the United States Probation Office filed a Petition For Warrant or Summons For Offender Under Supervision for Defendant (1) NOE NIETO SR., which alleged that Nieto violated a condition of his supervised release and recommended that Nieto 's supervised release be revoked (Clerk's Document No. 69). A warrant issued and Nieto was arrested. On November 3, 2023, Nieto appeared before a United States Magistrate Judge, was ordered detained, and a revocation of supervised release hearing was set.

Nieto appeared before the magistrate judge on December 5, 2023, waived his right to a preliminary hearing and to be present before the United States District Judge at the time of modification of sentence, and consented to allocution before the magistrate judge. Following the hearing, the magistrate judge signed his report and recommendation on December 6, 2023, which provides that having carefully considered all of the arguments and evidence presented by the Government and Defendant, based on the original offense and the intervening conduct of Nieto, the magistrate judge recommends that this court

revoke Nieto supervised release and that Nieto be sentenced to imprisonment for Five (5) months to run concurrently, with no term supervised release to follow the term of imprisonment (Clerk's Document No. 81). The Defendant should receive time served since his arrest on October 31, 2023.

A party may serve and file specific, written objections to the proposed findings and recommendations of a magistrate judge within fourteen days after being served with a copy of the report and recommendation, and thereby secure a *de novo* review by the district court. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation in a report and recommendation bars that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. *Douglass v. United Services Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (*en bane*). The parties in this cause were properly notified of the consequences of a failure to file objections.

On December 5, 2023, following the hearing on the motion to revoke supervised release, all parties signed a Waiver Of Fourteen Day Rule For Filing Objections To Report and Recommendation Of United States Magistrate Judge (Clerk's Document No. 80). The court, having reviewed the entire record and finding no plain error, accepts and adopts the report and recommendation filed in this cause.

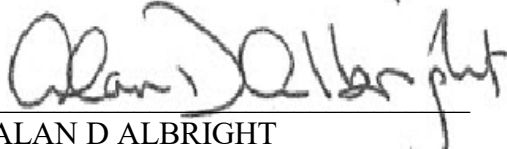
**IT IS THEREFORE ORDERED** that the Report and Recommendation of the

United States Magistrate Judge filed in this cause (Clerk's Document No. 81 ) is hereby ACCEPTED AND ADOPTED by this court.

**IT IS FURTHER ORDERED** that Defendant (1) NOE NIETO SR.'s term of supervised release is hereby REVOKED.

**IT IS FURTHER ORDERED** that Defendant (1) NOE NIETO SR. be imprisoned for Five (5) months to run concurrently with no term of supervised release. The Defendant should receive time served since his arrest on October 31, 2023.

Signed this 19th day of December, 2023.

  
ALAN D ALBRIGHT  
UNITED STATES DISTRICT JUDGE